

GENERAL PROTOCOL (Commercial and Non-Commercial Cases)

I. Motion Practice

Oral argument: I will have reviewed all filings prior to the argument and will outline my preliminary analysis and inclinations at the outset of the hearing. I will not necessarily start with the movant. The argument will be free-flowing and without structured time limits. I am interactive during argument and generally ask multiple questions. I allow counsel to sit or stand during argument, but I consider it respectful to ask to remain seated.

Forms of Order: **Please submit all forms of order in WORD format.**

Delivery of Motions with Exhibits: If you file a motion that contains exhibits and the totality of the exhibits exceeds 25 pages, please mail or hand-deliver a hard copy of the motion with an index of the tabbed exhibits to the Court's Judicial Assistant.

Citations: Include all case citations in the body of the brief and not in footnotes.

Supplemental Briefing: Sur-responses, sur-replies and supplemental briefing will not be permitted without leave of court.

Page length extensions: Briefs exceeding the page limit will not be accepted without leave of court. Prior to moving for an extension of the page limit, I expect counsel to aggressively edit their briefs in an effort to meet the page limit. I will consider motions to extend the page limit, however, when an adequate explanation is provided. A stipulation between the parties to exceed the page limit is not sufficient.

Motions *in Limine*: I impose a three page limit on Motions *in Limine* and a two page limit on responses. I do not allow replies. Each motion *in limine* should address only one topic.

Omnibus Motions: Do not include more than one motion in a single filing or combine a response and motion in one filing. This includes requests for fees. Any requests for fees must be made by separate motion.

Counsel should be aware that it can take upwards of 24 hours for efilings to be transferred to the Division.

II. Discovery or Disclosure Disputes and/or Sanctions

I have adopted informal discovery dispute resolution procedures as set forth in this standard order:

IT IS ORDERED that the dispute resolution procedures outlined below shall apply to the following circumstances: (1) the parties have a discovery dispute that needs to be addressed; (2) one party seeks to compel another party to take some action; or (3) a party intends to seek sanctions against another party. Under any of these circumstances, counsel for the movant shall contact the Court's Judicial Assistant and all other counsel to advise them of his/her request for a telephonic hearing. The moving party shall, by close of the following business day, email or fax to the Court's Judicial Assistant a one-page summary of the dispute. The opposing parties shall email or fax a responsive one-page summary within two business days of receiving the movant's summary. No exhibits shall be included with the summaries. If, after reviewing a summary, the Court determines that it needs additional documents, division staff will contact the attorneys. The summaries will be filed with the clerk by the Court. Once

the Court receives a summary from each party, the Court's Judicial Assistant will contact the parties to schedule a telephonic conference. The email address for the Court's Judicial assistant, Susan Whitaker, is whitakers@superiorcourt.maricopa.gov, and the fax number for the Division is 602-372-8566.

Personal Consultation: I take very seriously the obligation imposed on counsel by the Rules of Civil Procedure to personally consult in an attempt to resolve a dispute before raising it with the Court. Personal consultation means either an in-person conference or a telephone conversation.

Communication between counsel: I expect counsel to promptly respond to communications from opposing counsel. If I determine that an attorney is not promptly responding, I will issue an order requiring a response within two business days of any communication.

Written discovery and Rule 26.1: I look unfavorably upon inclusion of boilerplate objections when it is clear that some do not apply. With respect to requests for production, if a party objects to a request as overly broad, I expect the party to produce any documents that the party would have produced had the request been more narrowly constructed. I will strictly enforce Rule 26.1.

III. Other Pre-trial Practice Guidelines or Comments

Scheduling orders and extensions: I am generally liberal in granting extensions of pretrial deadlines. However, I will be looking for specific reasons for any requested extensions, and will set a status conference if I need more information or if I am concerned about the number of extensions or the length of any requested extension.

Accessibility: I try to make myself as accessible to the parties as possible. Attorneys may contact my judicial assistant if a problem arises that I would likely be able to address through a brief status conference.

IV. Trial Practice and Protocol

My general trial schedule is Monday-Thursday, 9:30am-4:30pm.

Time Limits: If I impose a specific time limit for each party's trial presentation, the parties are responsible for tracking time and will need to confer prior to trial the following day to reach an agreement on the remaining time for each party.

COMMERCIAL COURT PROTOCOL

Once I receive the parties' Joint Report and Proposed Scheduling Order (Forms 14(a) and 14(b)), I will set a telephonic status conference for the purpose of scheduling an in-person Rule 16(d) Conference. The Rule 16(d) Conference will likely be set within three weeks of the status conference. I may require the parties to attend the scheduling conference and therefore request that counsel have information on their clients' availability at the status conference.

The minute entry from the status conference will include an order requiring that the parties be prepared to discuss the following possibilities to limit litigation costs and to expedite early resolution of the case:

1. The scope of discovery, including discovery limitations and proportionality, particularly with respect to Electronically Stored Information (“ESI”) (*see* ESI Checklist attached to Rule 8.1 on the Court’s website);

2. Sequencing of discovery to facilitate an early mediation/settlement conference, or the early resolution of dispositive or partially dispositive motions;

3. Submitting one or more issues for a bench trial;

4. Stipulations regarding ESI, claw-back agreements, protective orders;

5. The timing and forum for alternative dispute resolution;

6. The expected number of experts, their areas of expertise and deadlines for disclosure of expert opinions;

7. Whether any *Daubert* challenges are expected;

8. Sequencing of dispositive or partially dispositive motions; and

9. The Court’s dispute resolution order (*see* above).

I will generally hold more frequent status conferences in commercial court cases to ensure that the case is on track. Those conferences will be brief and telephonic.